

Senate File 413 - Introduced

SENATE FILE _____
BY COMMITTEE ON LABOR AND
BUSINESS RELATIONS

(SUCCESSOR TO SSB 1322)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act providing for fair share agreements relating to collective
2 bargaining for public employees and providing an effective
3 date.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 2842SV 82
6 ec/es/88

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1 1 Section 1. Section 20.3, Code 2007, is amended by adding
1 2 the following new subsection:
1 3 NEW SUBSECTION. 5A. "Fair share fee" means the amount
1 4 charged to an employee in a bargaining unit who is not a
1 5 member of the employee organization certified by the board as
1 6 the exclusive bargaining representative for the public
1 7 employees in that bargaining unit, to cover the costs incurred
1 8 by the employee organization on behalf of the employee for
1 9 collective bargaining, contract administration, the adjustment
1 10 of grievances, and the pursuit of other matters affecting
1 11 wages, hours, and other conditions of employment.
1 12 Sec. 2. Section 20.8, subsection 4, Code 2007, is amended
1 13 to read as follows:
1 14 4. Refuse to join or participate in the activities of
1 15 employee organizations, including the payment of any dues,
1 16 fees or assessments or service fees of any type, except as
1 17 provided in section 20.9A.
1 18 Sec. 3. Section 20.9, unnumbered paragraph 1, Code 2007,
1 19 is amended to read as follows:
1 20 The public employer and the employee organization shall
1 21 meet at reasonable times, including meetings reasonably in
1 22 advance of the public employer's budget-making process, to
1 23 negotiate in good faith with respect to wages, hours,
1 24 vacations, insurance, holidays, leaves of absence, shift
1 25 differentials, overtime compensation, supplemental pay,
1 26 seniority, transfer procedures, job classifications, health
1 27 and safety matters, evaluation procedures, procedures for
1 28 staff reduction, in-service training, and other matters
1 29 mutually agreed upon. Negotiations shall also include whether
1 30 a fair share fee shall be charged to nonmembers of the
1 31 employee organization, terms authorizing dues checkoff for
1 32 members of the employee organization, and grievance procedures
1 33 for resolving any questions arising under the agreement, which
1 34 shall be embodied in a written agreement and signed by the
1 35 parties. If an agreement provides for dues checkoff, a
2 1 member's dues may be checked off only upon the member's
2 2 written request and the member may terminate the dues checkoff
2 3 at any time by giving thirty days' written notice. Such
2 4 obligation to negotiate in good faith does not compel either
2 5 party to agree to a proposal or make a concession.
2 6 Sec. 4. NEW SECTION. 20.9A FAIR SHARE FEE PROCEDURES.
2 7 1. When a collective bargaining agreement between a public
2 8 employer and a certified employee organization, which provides
2 9 that a fair share fee shall be charged to nonmembers of the
2 10 employee organization, is reached by ratification of the
2 11 agreement or by issuance of an arbitration award under section
2 12 20.22, the public employer shall, within ten days of the date
2 13 the agreement is reached, provide the employee organization
2 14 with a list of the names and addresses of all employees in the
2 15 bargaining unit represented by the employee organization. If
2 16 a collective bargaining agreement providing for fair share

2 17 fees has a term of more than one year, the list shall be
2 18 provided by the public employer annually, not later than
2 19 thirty days prior to the commencement of the next full year of
2 20 the contract's term.

2 21 2. a. Following receipt by the employee organization of a
2 22 list of employees pursuant to subsection 1, the employee
2 23 organization shall provide the public employer with the name
2 24 of each nonmember of the employee organization and the amount
2 25 of the fair share fee. In addition, the employee organization
2 26 shall provide the labor commissioner with the amount of the
2 27 fair share fee and any supporting documentation utilized in
2 28 determining the amount of the fair share fee. Commencing on
2 29 the effective date of the collective bargaining agreement
2 30 which provides for a fair share fee or the public employer's
2 31 receipt of the names and amounts from the employee
2 32 organization, whichever occurs later, the public employer
2 33 shall deduct once each month from the wages or salaries of
2 34 each nonmember the amount of the fair share fee specified for
2 35 that nonmember by the employee organization and transmit the

3 1 amounts deducted to the employee organization within fourteen
3 2 days of the deduction. If a collective bargaining agreement
3 3 includes a retroactive effective date, the public employer
3 4 shall make deductions for fair share fees prospectively only.
3 5 b. For purposes of determining the fair share fee, the
3 6 amount of the fair share fee shall not exceed the regular
3 7 membership dues paid by members of the employee organization
3 8 and shall not include any share of the costs incurred by the
3 9 employee organization for fraternal, ideological, political,
3 10 or other activities not germane to collective bargaining,
3 11 contract administration, the adjustment of grievances, or the
3 12 pursuit of other matters affecting wages, hours, and other
3 13 conditions of employment. Costs that shall be excluded from
3 14 the fair share fee include but are not limited to costs for
3 15 social events; lobbying on issues or for purposes other than
3 16 the negotiation, ratification, or implementation of a
3 17 collective bargaining agreement; voter registration training;
3 18 efforts to increase voting; political campaign techniques;
3 19 supporting or contributing to charitable organizations; and
3 20 supporting or contributing to religious or other ideological
3 21 causes.

3 22 3. As a precondition to the collection of a fair share
3 23 fee, the employee organization shall establish and maintain a
3 24 full and fair procedure that conforms with the requirements of
3 25 the Constitution of the United States and the Constitution of
3 26 the State of Iowa and all of the following:

3 27 a. Provides nonmembers of the employee organization with
3 28 an annual notice which informs them of the amount of the fair
3 29 share fee to be charged, provides them with sufficient
3 30 information to gauge the propriety of that amount, and informs
3 31 them of the procedure by which a nonmember may challenge that
3 32 amount.

3 33 b. Permits challenges by nonmembers to the amount of the
3 34 fair share fee.

3 35 c. Provides for the consolidation of all timely challenges
4 1 and for an impartial hearing, before an arbitrator appointed
4 2 by the American arbitration association pursuant to its rules
4 3 for impartial determination of union fees, conducted in
4 4 accordance with those rules and paid for by the employee
4 5 organization.

4 6 d. Provides that the burden of proof relating to the
4 7 propriety of the amount of the fair share fee is on the
4 8 employee organization.

4 9 e. Provides that all fair share fees reasonably in dispute
4 10 while a challenge is pending shall be held by the employee
4 11 organization in an interest-bearing escrow account until a
4 12 final decision is issued by the arbitrator, at which time such
4 13 funds shall be disbursed in accordance with the arbitrator's
4 14 decision.

4 15 4. The employee organization shall notify the public
4 16 employer of any arbitrator's award issued pursuant to the
4 17 challenge procedure specified in subsection 3 which reduced
4 18 the amount of a fair share fee and the public employer shall
4 19 adjust its deduction from the wages or salaries of the
4 20 challenging nonmembers accordingly.

4 21 5. This section shall be enforced through an action in a
4 22 court of competent jurisdiction.

4 23 Sec. 5. EFFECTIVE DATE. This Act, being deemed of
4 24 immediate importance, takes effect upon enactment.

4 25 EXPLANATION

4 26 This bill authorizes the negotiating of fair share fees in
4 27 collective bargaining agreements for public employees.

4 28 Code chapter 20, concerning collective bargaining for
4 29 public employees, is amended to authorize fair share fees.
4 30 Code section 20.9 is amended to provide that the scope of
4 31 negotiations for purposes of a collective bargaining agreement
4 32 includes negotiating whether a fair share fee shall be charged
4 33 to nonmembers of an employee organization.
4 34 New Code section 20.9A establishes the procedures to follow
4 35 if a fair share fee is included in a collective bargaining
5 1 agreement. The new Code section provides that once an
5 2 agreement is ratified or an arbitration award is issued that
5 3 includes a fair share fee, the public employer shall, within
5 4 10 days, provide the employee organization with a list of
5 5 employees covered by the agreement. If the agreement has a
5 6 term of more than one year, the employer shall provide the
5 7 list on an annual basis. Once the employee organization
5 8 receives the list, the employee organization shall provide the
5 9 employer with a list of each nonmember of the employee
5 10 organization and the amount of the fair share fee. The
5 11 employee organization shall also inform the labor commissioner
5 12 of the amount of the fair share fee and how it was determined.
5 13 The bill provides that the fee shall not exceed the regular
5 14 membership dues paid by members and shall not include costs of
5 15 the employee organization that are not costs incurred by the
5 16 employee organization and germane for collective bargaining,
5 17 contract administration, the adjustment of grievances, and the
5 18 pursuit of other matters affecting wages, hours, and other
5 19 conditions of employment. The bill provides that the public
5 20 employer shall begin deducting the fair share fee from
5 21 nonmembers upon the later of the effective date of the
5 22 collective bargaining agreement or the date the public
5 23 employer receives the list of nonmembers and the amount of the
5 24 fair share fee. The bill provides that no retroactive
5 25 deductions for fair share fees are allowed.
5 26 The bill also establishes several additional conditions for
5 27 the collection of a fair share fee. The bill provides that
5 28 nonmembers be given an annual notice of the amount of the fair
5 29 share fee and their rights as to challenging the amount. The
5 30 bill also provides that nonmembers shall be permitted to
5 31 challenge the amount of the fair share fee at an impartial
5 32 hearing before an arbitrator appointed by the American
5 33 arbitration association. The bill provides that the employee
5 34 organization has the burden of proof relating to the amount of
5 35 the fee to be charged. The bill provides that the employee
6 1 organization shall notify the public employer of any
6 2 arbitrator's award and the public employer shall adjust the
6 3 deduction from wages of the nonmembers who challenged the fair
6 4 share fee amount. The bill provides that the requirements of
6 5 this new Code section shall be enforced in a court of
6 6 competent jurisdiction.
6 7 The bill takes effect upon enactment.
6 8 LSB 2842SV 82
6 9 ec:rj/es/88